## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

| CHELSIE NITSCHKE AND CYNTHIA  | § |                                      |
|-------------------------------|---|--------------------------------------|
| GEORGE,                       | § |                                      |
|                               | § |                                      |
| Plaintiffs,                   | § | Case No. 3:24-cv-00218               |
|                               | § |                                      |
| V.                            | § | JURY DEMANDED                        |
|                               | § |                                      |
| BLUE HILLS HOLDINGS, LLC; BNA | § | Judge William L. Campbell, Jr.       |
| INVESTMENTS, GP; BACAR        | § | Magistrate Judge Jeffery S. Frensley |
| CONSTRUCTORS, INC.; AND 906   | § |                                      |
| STUDIO, PLLC,                 | § |                                      |
|                               | § |                                      |
| Defendants.                   | § |                                      |

## PLAINTIFFS' OPPOSED MOTION TO EXTEND TIME TO RESPOND TO DEFENDANT'S BACAR CONSTRUCTORS, INC. MOTION FOR SUMMARY JUDGMENT

Plaintiffs' Chelsie Nitschke and Cynthia George ("Plaintiffs") files this Opposed Motion To Extend Time To Respond To Defendant's Bacar Constructors, Inc. Motion For Summary Judgment as follows:

For several months, consistent with dictates of the Court's Case Management Order [Doc 26, pp. 5-6], the parties have been diligently working to schedule a mediation in this case. After numerous emails coordinating scheduling, the mediation is scheduled for January 27, 2025, with mediator Allen Blair, who has successfully mediated a number of FHA design and construction cases similar to this case. In anticipation of the mediation and to conserve resources for settlement, Plaintiffs and other parties have deferred certain discovery and other activity, such as dispositive motions. Thus, on December 11, 2024, the parties filed an Agreed Motion to Extend Deadlines [Doc.38]. In the Agreed Motion the parties stated:

"In light of the parties 'commitment to attempt to resolve this case, they request that the Court reset the current scheduling order to move the unexpired deadlines for dispositive motions, completion of discovery [and] other pretrial matters."

This representation to the Court reflects the parties' agreement to defer certain discovery, including potential costly depositions and the preparation and briefing of dispositive motions, until after the mediation. Plaintiffs and perhaps other parties expected to have time to conduct further discovery prior to having to prepare or respond to dispositive motions. The Agreed Motion was granted by the Court on December 12, 2024. [Doc 39] extending deadlines to:

| Old Deadline: | New Deadline: |   |
|---------------|---------------|---|
| 12/13/2024    | 03/11/2025    | DISCOVERY CUTOFF, DEPOSE ALL FACT AND   |
|               |               | EXPERT WITNESSES                        |
| 12/20/2024    | 02/11/2025    | ALL DISCOVERY MOTIONS, JOINT DISCOVERY  |
|               |               | DISPUTE STATEMENT, AND SECOND CASE      |
|               |               | RESOLUTION PLAN AND JOINT STATUS REPORT |
| 01/16/2025    | 04/25/2025    | ALL DISPOSITIVE MOTIONS.                |

Despite the parties' implicit agreement, on December 13, 2024, Defendants Bacar Constructors, Inc. ("Bacar") filed their Motion for Summary Judgment [Doc. 40], Memorandum in Support [Doc. 41], and Statement of Undisputed Material Facts in Support [Doc. 42] (the "Motion"). Pursuant to Local Rule CV-7(f), the deadline for Plaintiff's Response to Defendant Bacar's Motion is January 3, 2025. Plaintiffs' counsel has a vacation that week that was scheduled many months ago. Plaintiffs' counsel reached out to Bacar's counsel and for all these reasons and due to the intervening Christmas and New Years holidays, requested an extension to respond to the motion for summary judgment until after the mediation. While acknowledging that the briefing and decision on the motion for summary judgment could not possibly be completed until *after* the mediation, Bacar's counsel declined to agree to any extension unless Plaintiffs provided a summary response to the motion.

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<sup>&</sup>lt;sup>1</sup> [Doc 38, p.3].

Respectfully, due to the intervening Christmas and New Years holidays, Plaintiffs' counsel's vacation, scheduled mediation, the parties' implicit agreement to defer discovery and

dispositive motions, in order to enable Plaintiffs to schedule and take certain potential depositions

and the press of other business, Plaintiffs seek and extension time of four (4) weeks after mediation

to and including February 24, 2025, within which to file a Response.

Defendant has opposed the extension sought herein.

The relief requested herein is not sought for the purpose of delay, but so that justice may

be done. The granting of the requested relief will not unduly prejudice Defendants in this matter.

Wherefore, Plaintiffs respectfully request that this Motion be granted, and that the Plaintiffs

be granted an extension of time, to and including February 24, 2025, within which to file a

Response to Defendant Bacar Constructors, Inc.'s Motion for Summary Judgment [Doc. 40],

Memorandum in Support [Doc. 41], and Statement of Undisputed Material Facts in Support [Doc.

42], and for such other and further relief the Court deems just and proper.

Dated: December 26, 2024.

Respectfully Submitted,

CALHOUN & ASSOCIATES

/s/ Eric G. Calhoun

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ATTORNEYS FOR PLAINTIFFS

## **CERTIFICATE OF CONFERENCE**

I certify that I conferred with Gregory Lee Cashion, counsel for Defendant Bacar Constructors, Inc., and he stated that he would not agree to an extension unless Plaintiffs provided a written summary their response to the motion and therefore opposes this motion.

/s/ Eric G. Calhoun
Eric G. Calhoun

## **CERTIFICATE OF SERVICE**

I hereby certify that on December 26, 2024, the foregoing has been electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following counsel of record:

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